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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,746	04/01/2004	George D. Blankenship	LEE 200422	5093
64956	7590	09/20/2006		
FAY SHARPE / LINCOLN 1100 SUPERIOR AVENUE SEVENTH FLOOR CLEVELAND, OH 44114				
EXAMINER				
ELVE, MARIA ALEXANDRA				
ART UNIT		PAPER NUMBER		
1725				

DATE MAILED: 09/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/813,746

Applicant(s)

BLANKENSHIP, GEORGE D.

Examiner

M. Alexandra Elve

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-133 is/are pending in the application.
- 4a) Of the above claim(s) 47-133 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 24-38 and 40 is/are allowed.
- 6) ☒ Claim(s) 1-23 and 41-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

Claims 13-21 & 45 recite the limitation "gap width". There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 7-23, 41 & 44-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chiou et al. (USPN 6,700,093) in view of Penfold et al. (USPN 4,031,424).

Chiou et al. discloses a dielectric discharge apparatus for the removal of perfluorocompound. The apparatus has a housing, a first and second dielectric tube and at least one electrode disposed in the housing. A cooling gas passages are formed around the first dielectric tube and the housing and another around the second dielectric tube. Some gases, which may be used, are carbon dioxide, nitrous oxide and so forth. The dielectric tubes are ceramic (e.g. aluminum oxide).

The use of an applied voltage is disclosed, however, the specific values are not taught. Additionally, Chiou et al. does not teach the use of a wire or gap dimensions.

Penfold et al. discloses a discharge apparatus for cleaning and/or coating a wire. The apparatus creates stable and uniform plasmas. A power supply is used to form plasma. Plasma is formed near a cylindrical cathode sheath and gases used are argon, neon and so forth. These plasmas are used for cleaning. The apparatus has a combined high voltage and field power supply. An annular chamber exists within a barrel. Insulators may be constructed of glass, Pyrex, ceramic, quartz and other suitable materials. Plastic tubing may also be used in the apparatus. Gap sizes are: the diameter may be 1/10 to 6 inches (approx. 0.25 to 15 cm). Voltages range from a relatively low voltage to several thousand volts, that is, about 500 to 3000 volts. Exemplary substrates may be wire.

It would have been obvious to one of ordinary skill in the art at the time of the invention to use a wire substrate, measure voltage and gap parameters, as taught by Penfold et al. in the Chiou et al. system because these are merely apparatus parameters which should be measured in order to obtain consistent results.

The types of materials chosen are a choice in design and substitution of known equivalent structures may be made. In re Kuhl 188 USPQ (CCPA 1975) and In re Ruff 118 USPQ 343 (CCPA 1958).

It has been held that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. See In re Casey 152 USPQ 235 (CCPA 1967)

Claims 4-6 & 42-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chiou et al. and Penfold et al. as stated in the above paragraph and further in view of Stava (USPN 6,365,864).

Chiou et al. and Penfold et al. do not teach frequency values.

Stava discloses a wire cleaning apparatus in which the wire is within a tunnel and tube assembly. A power supply generates a frequency of 1-3 kHz and 100 to 300 kHz. Plasma is created within the tubing assembly and gas is also used.

It would have been obvious to one of ordinary skill in the art at the time of the invention to use a frequency of 1-3 or 100-300 kHz as taught by Stava in the Chiou et al. and Penfold et al. system because these are merely apparatus parameters which should be measured in order to obtain consistent results.

Allowable Subject Matter

Claims 24-38 & 40 are allowed.

The following is a statement of reasons for the indication of allowable subject matter: the prior art does not teach a sealed light emitting cylindrical chamber concentric with the path and between the conductive electrode sleeve and the dielectric sleeve.

Response to Arguments

Applicant's arguments filed 6/30/06 have been fully considered but they are not persuasive.

Applicant argues that the references show no motivation to combine. The examiner respectfully disagrees because both references are drawn to a discharge apparatus, which is used for cleaning or removing materials. Thus, both references are directed towards the same field.

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Alexandra Elve whose telephone number is 571-272-1173. The examiner can normally be reached on 6:30-3:00 Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

September 17, 2006.



M. Alexandra Elve
Primary Examiner 1725